

RUSS, AUGUST & KABAT

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14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**
16

17 NEUROGRAFIX, a California
18 corporation; WASHINGTON
RESEARCH FOUNDATION, a not-for-
19 profit Washington corporation,

20 Plaintiffs,

21 vs.

22 SIEMENS MEDICAL SOLUTIONS
USA, INC., a Delaware corporation; and
23 SIEMENS AKTIENGESellschaft, a
German Corporation,

24 Defendants.
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Case No. 10-CV-1990 MRP (RZx)

[Assigned to The Honorable Mariana
R. Pfäelzer]

**DECLARATION OF ANDREW D.
WEISS IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
SIEMENS' MOTION FOR
PARTIAL SUMMARY
JUDGMENT OF
INDEFINITENESS OF
"CONSPICUITY" IN CLAIMS 1, 3,
7, 11, 12, 18, AND THEIR
ASSERTED DEPENDENT
CLAIMS IN U.S. PATENT NO.
5,560,360**

First Amended Complaint Filed:
July 30, 2010

1 I, Andrew D. Weiss, declare and state as follows:

2 1. I am a member of the State Bar of California and an associate at the
3 firm of Russ, August & Kabat, counsel of record for Plaintiff NeuroGrafix in the
4 above-captioned action. I have personal knowledge of the facts set forth herein,
5 and if called upon to testify, could and would testify competently thereto.

6 2. Attached hereto as **Exhibit 1** is a true and correct copy of the slip
7 opinion in *Star Science Inc. v. R.J. Reynolds Tobacco Co.*, No. 2010-1183, 2011
8 U.S. App. LEXIS 17826 (Fed. Cir. Aug. 26, 2011).

9 3. Attached hereto as **Exhibit 2** is a true and correct copy of the Expert
10 Report of Michael Brant-Zawadzki, M.D., F.A.C.R., regarding the meaning of
11 "conspicuity" to a person of ordinary skill in the art, dated July 21, 2011.

12 4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts
13 from the deposition transcript of R. Nick Bryan, conducted on September 7, 2011.

14 5. Attached hereto as **Exhibit 4** is a true and correct copy of U.S.
15 Patent No. 5,560,360, entitled "Image Neurography and Diffusion Anisotropy
16 Imaging."

17 6. Attached hereto as **Exhibit 5** is a true and correct copy of the Expert
18 Report of R. Nick Bryan, dated July 22, 2011

19 7. Attached hereto as **Exhibit 6** is a true and correct copy of Hallberg et
20 al., *Some Effects of Method on the Measured Conspicuity of Chest Lesion*, 13
21 Investigative Radiology 339-443 (1978).

22 8. Attached hereto as **Exhibit 7** is a true and correct copy of the
23 Rebuttal Expert Report of Aaron G. Filler, M.D., Ph.D., F.R.C.S., to the Expert
24 Report of Michael E. Moseley concerning U.S. Patent No. 5,560,360, dated
25 February 1, 2011.

26 9. Attached hereto as **Exhibit 8** is a true and correct copy of excerpts
27 from the deposition transcript of Michael E. Moseley, conducted on February 8,
28 2011.

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